IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 582 OF 2006
IN
NOTICE OF MOTION NO. 159 OF 2006
IN
ARBITRATION PETITION (LODG) NO. 6 OF 2006

Sanjay Chudgar] .. Appellant (Ori.Petitioner)

Versus

1. M/s. Anantrai A. Parekh & 3 ors.] .. Respondents

Mr. Birendra Saraf with Mr. S. Nagvadaria i/b Mr. S. Nagvadaria for the appellant.

Mr. Jal Andhyarujina with Mr. Jayant Gaikwad i/b Mr. Ajay Kandhar for the respondent No.1.

CORAM: R.M. LODHA &
S.A. BOBDE, JJ.

DATED: 19TH AUGUST, 2006

P.C. :

. We heard Mr. Birendra Saraf, the counsel for the appellant and perused the impugned order.

2. The counsel for appellant did not dispute the participation of the appellant in the arbitration proceedings. He, however, submitted that appellant was not aware that the reference has been closed for orders on 12th January, 1998. According to him, the Award was never received by the appellant. The fact that Award is

undated and that the execution of the Award was levied almost after seven years, the counsel would submit, casts doubt that the Arbitrator passed the Award in the year 1998.

3. The learned single Judge considered the available material and found that sufficient cause for such long delay in filing Arbitration Petition is not made out. We have no justifiable reason to take the different view. If the appellant did not hear the progress in the arbitration proceedings or did not receive any intimation of the Award within reasonable time, he would have surely found out the progress in the arbitration proceedings. It is not probable that the appellant would not have found out about the progress of the case or the Award if he had no knowledge of the Award that was passed in the year 1998.

4. The case of the respondent that the Award was received by the appellant on 13th March, 1998 is supported by the receipt of the courier (Page 71 of the Paper Book). The courier receipt shows that the envelope was addressed to the appellant on 13th March, 1998 having his phone number. The signature of the person who received the envelope reads ‘I.V. Chudgar’. It is not in dispute that I.V. Chudgar is the mother of

the appellant. Though the appellant seeks to challenge the correctness of the signature of his mother on the courier receipt by relying upon some document of the bank, we are hardly convinced by the case of the appellant.

5. It is true that the Award has been sought to be executed after lapse of 7/8 years, but that would not cast doubt that it was not passed in the month of March, 1998.

6. Long delay of seven years is not at all explained sufficiently by the appellant. In the circumstances, the learned single Judge was justified in dismissing the Notice of Motion for condonation of delay in filing the Arbitration Petition. No case for interference is made out.

7. The Appeal is dismissed in limine.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]